

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Copper Retirement Network Change	)	WC Docket No. 18-352
Notification Filed by Puerto Rico Telephone	)	
Company, Inc. d/b/a Claro	)	
	)	

**RESPONSE TO OBJECTION FILED BY  
WORLDNET TELECOMMUNICATIONS, INC.**

Puerto Rico Telephone Company, Inc. (“PRTC”), by its attorneys and pursuant to section 51.333(d) of the Commission’s rules,<sup>1</sup> hereby responds to the objection filed by WorldNet Telecommunications, Inc. (“WorldNet”)<sup>2</sup> in response to the Public Notice of Copper Retirement that PRTC served on WorldNet on November 5, 2018,<sup>3</sup> which the Wireless Competition Bureau released via Public Notice on November 28, 2018.<sup>4</sup>

**I. INTRODUCTION**

The Commission amended the copper retirement rules in 2017 to reestablish the “balanced objective” of ensuring that competing providers receive “adequate, but not excessive time to respond to changes to an incumbent LEC’s network,”<sup>5</sup> and to allow incumbent LECs to implement copper retirements without “unreasonable and burdensome notice-related

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<sup>1</sup> 47 C.F.R. § 51.333(d).

<sup>2</sup> See Response of WorldNet Telecommunications, Inc., *Copper Retirement Network Change Notification Filed by Puerto Rico Telephone Company, Inc. d/b/a Claro*, WC Docket No. 18-352 (filed Dec. 11, 2018) (“Objection”). PRTC notes that although the caption in the Objection makes reference to WC Docket No. 18-141, it was posted in the docket of the instant proceeding.

<sup>3</sup> Puerto Rico Telephone Company, Inc., Public Notice of Copper Retirement Under Rule 51.333 (Nov. 5, 2018) (“PRTC Public Notice”), attached to Letter from Eduardo R. Guzmán, counsel to PRTC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 18-352 (filed Nov. 13, 2018).

<sup>4</sup> Public Notice, *Copper Retirement Network Change Notification Filed by Puerto Rico Telephone Company, Inc. d/b/a Claro*, WC Docket No. 18-352 (WCB Nov. 28, 2018) (“Public Notice”).

<sup>5</sup> *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 32 FCC Rcd 11128, 11137 (2017) (“2017 Copper Retirement Order”).

obligations.”<sup>6</sup> Consistent with this objective, the Commission explained at the time that it was reinstating the objection procedures of section 51.333(c) for copper retirements under the assumption that they should be invoked only “[i]n the rare instances in which a competitor may need additional information or be unable to make the accommodations necessary to continue to provide service to its customers within the 90 day notice timeframe.”<sup>7</sup>

WorldNet’s Objection neither raises to that level nor makes the showing necessary to justify a delay to PRTC’s planned copper retirements. Without attempting to explain why the detailed list of impacted addresses that PRTC provided is insufficient to start identifying potentially impacted WorldNet customers, WorldNet asserts that a delay of PRTC’s planned copper retirements is necessary and conditions its unwillingness to “even begin the process” on PRTC preparing an analysis that identifies every WorldNet customer located in the affected areas and offering “proposed arrangements” to transition each of these customers, (Objection at 2). And WorldNet does so while declining to state the earliest possible date by which it can accommodate the proposed copper retirement, as is required by section 51.333(c).

The Commission should not endorse this slated and inappropriate view of how the copper retirement process should work. As illustrated below, PRTC has complied with its notice-based obligations under sections 51.325-51.335 of the Commission’s rules; has provided additional information that offers WorldNet an enhanced tool to identify affected WorldNet customers; and has confirmed that WorldNet has access to PRTC operations support systems that include technical information about each copper loop used by a WorldNet customer, including its location by central office, municipality, and network node (or “IP”). Moreover, PRTC stands ready to work cooperatively with WorldNet to ensure that all affected customers are accurately

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<sup>6</sup> *Id.* at 11138.

<sup>7</sup> *Id.* at 11156.

identified and are smoothly transitioned to whatever new arrangements WorldNet chooses. In so doing, PRTC has given WorldNet the same data and tools that PRTC is using to identify which of its own customers will be impacted by the planned copper retirements, and has fully complied with its regulatory obligations.

## **II. DISCUSSION**

### **A. WorldNet’s Objection Does Not Support Delaying PRTC’s Planned Copper Retirement**

1. WorldNet Has Not Demonstrated That It Needs Technical Information That PRTC Has Not Already Provided or That the PRTC Public Notice Was Defective in Any Way

PRTC fully complied with the requirements of sections 51.325-51.335 of the Commission’s rules, including the content requirements of section 51.327. The latter requires the incumbent LEC to provide, among other things, “[t]he location(s) at which the changes will occur.”<sup>8</sup> Incumbent LECs giving notice of copper retirements may comply with this requirement by providing paper and/or electronic copies of a list of “affected addresses,” which allows competing providers to search for addresses or locations where copper facilities are to be retired.<sup>9</sup>

That is precisely what PRTC did. Contrary to what WorldNet alleges, (Objection at 1), the PRTC Public Notice did not limit itself to identifying the affected locations by reference to central offices and network nodes, and it did not simply identify “the specific facilities . . . by PRTC ‘IP’ numbers,” (Objection at 1). Instead, PRTC did what other incumbent LECs providing public notice of copper retirements have done: it provided a list of specific *physical addresses* where it plans to retire copper facilities, which were then grouped by network node (or

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<sup>8</sup> 47 C.F.R. 51.327(a)(4).

<sup>9</sup> See *Technology Transitions USTelecom Petition for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, Order, 32 FCC Rcd 1323 (2017).

“IP”) and central office for ease of sorting and searching. WorldNet knows which of its customers are served out of each of the central offices identified in the PRTC Public Notice, which means that it could have conducted a basic search to determine if the location of any its customers matches the affected locations identified in the PRTC Public Notice. Moreover, WorldNet has access to PRTC’s operations support systems, where it can review the same loop information to which PRTC has access, including technical information about any loop and the specific network node out of which each loop is served—a tool that further allows WorldNet to confirm whether a particular customer is served by any of the impacted IPs.

WorldNet does not explain how these actions fall short of the requirements of the Commission’s rules. Nor does it explain why the specific location information provided in the PRTC Public Notice (when coupled with the detailed loop information to which WorldNet has access through PRTC’s operations support systems) is insufficient for WorldNet to start the process of identifying its own potentially affected customers. Indeed, WorldNet gives no indication that it attempted to conduct such a search of the addresses provided, does not explain why it was either unable or unwilling to perform such a basic task, and provides no clear indication of whether it has taken *any* steps (other than trying to shift this basic burden to PRTC) to identify affected customers. These are not the “rare” circumstances that compel delaying a planned copper retirement.

Finally, the Commission should not endorse WorldNet’s suggestion that the PRTC Public Notice was deficient or incomplete because it did not include an analysis that identifies every WorldNet customer located in the affected areas and offers “proposed arrangements” to transition each of these customers, (Objection at 2). The Commission has not required incumbent LECs to include in their public notices the kind of -by-circuit analysis that WorldNet

is demanding as a pre-condition to be able to accommodate planned copper retirements; indeed, the Commission refrained from adopting such a requirement when WorldNet urged the Commission to do so more than three years ago.<sup>10</sup> The Commission has not done so for good reason: it imposes an undue burden on an incumbent LEC that otherwise is providing detailed information identifying the locations affected by the planned copper retirement, and incumbent LECs are in no position to determine which “arrangements” are best suited for each customer of a competing provider.<sup>11</sup>

In sum, WorldNet has it backwards. WorldNet—and not PRTC—has the most accurate and up-to-date information about the location of its own customers and it is in the best position to determine which alternative arrangements are better suited for each customer. PRTC can validate any data (if necessary), address specific issues or concerns that arise out of WorldNet’s review of the data that PRTC has provided, and work with WorldNet to ensure that any transition from PRTC’s copper loops to the alternative arrangement takes place smoothly and on a timely manner. But, the initial responsibility for determining which alternative arrangement best suits each WorldNet customer rests on WorldNet, not PRTC. A delay is not warranted when PRTC has provided the information for WorldNet to perform this basic task and WorldNet has elected not to act.

## 2. WorldNet’s Additional Request Regarding the “Scope” of the Planned Retirements Do Not Justify Delaying the Planned Copper Retirements

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<sup>10</sup> Comments of WorldNet Telecommunications, Inc. at 3, Technology Transitions, GN Docket No. 13-5, WC Docket No. 05-25 (filed Oct. 26, 2015) (asking the Commission to require ILECs to “identify . . . on a line-by-line, circuit-by-circuit basis . . . the impact of the incumbent LEC’s proposed copper retirement on the interconnecting entity’s service to end users.”).

<sup>11</sup> See *Technology Transitions*, Rep. & Order, Order on Recons. & Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, 9388 (2015) (“*2015 Technology Transitions Order*”) (explaining that ILEC are not supposed to “know what type of alternative arrangements might suit any impacted carriers.”); see also *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Rep. & Order & Mem. Op. & Order, 11 FCC Rcd 19392, 19479 (1996) (explaining that the copper retirement rules do not require ILECs to “educate a competitor on how to re-engineer its network, or to be experts on the operations of other carriers.”).

WorldNet also argues that it cannot accommodate PRTC's planned copper retirement on the theory that PRTC must share "the full scope of [its] intended retirement for each affected UNE loop," which WorldNet defines as "the exact portion of the loop being retired," (Objection at 2). PRTC, however, already described the facilities that it plans to retire: PRTC "intends to retire copper distribution and copper loop facilities" in each of the locations set forth in the PRTC Public Notice, after which it will "cease to maintain and will not offer services over them."<sup>12</sup> To the extent that an additional explanation is necessary, PRTC clarifies that it intends to retire both the feeder the portion and the distribution portion of each of the copper loops that serves the affected locations. It is unclear what additional information PRTC can offer on this issue.

### 3. PRTC Is Not Required to Provide Access to a Voice Grade Transmission Path

WorldNet also is wrong when it asserts that PRTC "is currently still under an obligation pursuant to it [sic] current interconnection agreement with WorldNet to provide to WorldNet nondiscriminatory access to a 64 kbps transmission path capable of voice grade service on PRTC fiber facilities replacing retired copper," (Objection at 2 n.1). In late 2015 the Commission granted all incumbent LECs forbearance from the requirements of section 51.319(a)(3)(iii)(C) of the Commission's rules, which set forth the obligation to which WorldNet refers.<sup>13</sup> Critically, the *Forbearance Order* did not grandfather existing agreements even though at least two parties expressly requested that the Commission do so at the time.<sup>14</sup> This means that PRTC was

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<sup>12</sup> PRTC Public Notice at 1.

<sup>13</sup> See 47 C.F.R. § 51.319(a)(3)(iii)(C); *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Requirements*, Memorandum Opinion & Order, 31 FCC Rcd 6157 (Dec. 28, 2015) ("*Forbearance Order*").

<sup>14</sup> See Letter from James C. Falvey, counsel for the Full Service Network, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 14-192 (filed Dec. 11, 2015); Letter from Eric J. Branfman, counsel Counsel for Members of the Wholesale Voice Line Coalition, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 14-192 (filed Dec. 9, 2015).

liberated from this requirement in early 2016 (the effective date of the *Forbearance Order*). As a result, the obligation derived from that provision has not been in effect by operation of law since early 2016 and is not in effect today as a matter of law or contract.

PRTC further notes that, out of an abundance of caution, it already has invoked the change of law provisions of its interconnection agreement to eliminate any reference to the now-vacated obligation derived from section 51.319(a)(3)(iii)(C). That provision is designed precisely to allow for the formal implementation of orders such as the *Forbearance Order*. PRTC asked WorldNet on October 5, 2018, to implement this straightforward change in law in their interconnection agreement to avoid any confusion regarding the effects of the *Forbearance Order*. WorldNet should have accepted this proposal without delay given the undisputed application of the *Forbearance Order* and the lack of any grandfathering of existing interconnection agreements. Instead, WorldNet ignored its obligations under the interconnection agreement to implement the change of law, and it is now pretending to rely on its own unreasonable delay to invoke a non-existent obligation and delay PRTC's planned copper retirement. The Commission should not endorse this ploy.

#### **B. PRTC Stands Ready to Work Cooperatively with WorldNet**

As stated above, PRTC is committed to working cooperatively with WorldNet and keeping lines of communication open to assist in the transition of any impacted customers to whichever alternative arrangements WorldNet chooses. To that end, and in compliance with section 51.333(d)(3) of the Commission's rules, PRTC informs the Commission that it already has provided to WorldNet an electronic and fully searchable map that offers another tool to help WorldNet identify which of its customers are found within the locations where PRTC is planning to retire copper per the PRTC Public Notice. This additional tool allows WorldNet to select a particular IP where PRTC is planning to retire copper, view on the map the area served by that

IP, and search within this area by the addresses or coordinates of the WorldNet customers served out of the central office linked to that IP. Any WorldNet customer located inside one of these areas will be impacted by the PRTC planned copper retirement. This supplemental submission, which complements the list of impacted addresses that were included in the PRTC Public Notice, confirms that WorldNet has all the tools and data necessary to determine which of its customers will be impacted by PRTC's planned copper retirement. And, when taken as a whole, they are the same data and tools that PRTC is using to identify which of its current customers would be impacted by planned copper retirements.

To the extent that WorldNet requires any clarification or data validation in using this tool, or if after using this tool it is unclear whether a particular WorldNet customer will be impacted, PRTC stands ready to assist and provide additional information as necessary. Likewise, and although WorldNet already has access to the PRTC operations support systems that contains technical information about all the copper loops that WorldNet is currently leasing, PRTC is willing and ready to work with WorldNet in dealing with specific instances where additional technical information may be necessary. PRTC also is available to work with WorldNet to identify non-tariffed PRTC facilities that may serve as alternative arrangements to the copper facilities that WorldNet leases today.

**C. The Commission Should Adopt PRTC's Modified Implementation Date**

Section 51.333(c) requires any provider filing an objection to "[s]tate the earliest possible date (not exceed six months from the date the incumbent LEC gave its original public notice under this section) by which [it] anticipates that it can accommodate the incumbent LEC's changes, *assuming that it receives the technical information or other assistance requested . . .*



.’<sup>15</sup> WorldNet did not comply with this directive. Instead of providing a date-certain (even under the assumption that additional technical information was necessary, which is not the case here), WorldNet complained that the earliest possible data depended on “the extent WorldNet’s UNE loop facilities will be impacted” by PRTC’s planned copper retirement, (Objection at 3). WorldNet then vaguely suggested that *some* of its customers “may justify and/or could require WorldNet fiber deployments that would require three (3) to six (6) months to complete,” (Objection at 3). But that customers may require the deployment of fiber does not, by itself, justify doubling the 90-day notice period established in section 51.333(f) of the Commission’s rules. The Commission has recognized that providers such as WorldNet “have had the opportunity to explore and develop ways to compete in a world without copper competitors,”<sup>16</sup> and the Commission certainly was aware that these providers would be faced with the possibility of deploying fiber when it concluded that then 90-day period was “adequate” for carriers to implement such plans.<sup>17</sup> The mere possibility of having to deploy fiber to an indeterminate number of end user does not justify a delay to the implementation of PRTC’s planned copper retirement.

That being said, and in the interest of avoiding further disputes and allowing for the process move forward expeditiously, PRTC is willing to modify its original implementation date (which was “on or after February 13, 2019”) to on or after March 14, 2019, which is ninety days after PRTC submitted the supplemental electronic maps to WorldNet, and more than one hundred days since the issuance of the Public Notice. This modification should moot any claim that WorldNet would be prejudiced under these circumstances.

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<sup>15</sup> 47 C.F.R. § 51.333(c)(3) (emphasis added).

<sup>16</sup> 2017 *Copper Retirement Order*, 32 FCC Rcd at 11142.

<sup>17</sup> *Id.* at 11154.

### III. CONCLUSION

For the reasons set forth above, the Commission should allow PRTC to proceed with its planned copper retirement, as set forth in the PRTC Public Notice, based on an implementation date of on or after March 14, 2019.

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Respectfully submitted,

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December 18, 2018

**CERTIFICATE OF SERVICE**

I, Matthew G. Baker, certify that on December 18, 2018, a true and correct copy of the foregoing Response to Objection was sent by electronic mail (+) and/or United States mail, first-class postage prepaid (\*) to the following:

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